

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE EMERGENCY MEDICAL SERVICES REGULATORY BOARD

In the Matter of Chaska Fire
Department Ambulance Upgrade
to ALS License

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION

The above-entitled matter came on for hearing before Administrative Law Judge George A. Beck at 9:30 a.m. on October 30 and October 31, 2003, at the Chaska Community Center Theatre, in Chaska, Minnesota. The Applicant filed its initial brief on November 10, 2003 and the Objector filed its brief on November 21, 2003. The OAH record in this matter closed on November 26, 2003, with the filing of the Applicant's reply brief.

Mac R. Willemssen, Attorney at Law, Melchert, Hubert, Sjodin, PLLP, 112 Second Street West, P.O. Box 67, Chaska, Minnesota 55318, appeared on behalf of the City of Chaska ("Applicant"). Gregory P. Bulinski, Attorney at Law, Bassford Remele, P.A., 33 South Sixth Street, Suite 3800, Minneapolis, Minnesota 55402-3707, appeared on behalf of Allina Medical Transportation ("Objector").

NOTICE

Pursuant to Minn. Stat. § 144E.11, subd. 7 (2002), this Report is a recommendation, not a final decision. The Emergency Medical Services Regulatory Board will make the final decision after reviewing the administrative record. The Board may adopt, reject or modify these Findings of Fact, Conclusions and Recommendation. The Board shall not make its final decision until after this Report has been made available to the parties for at least ten days.^[1] An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board. Parties should contact Executive Director Mary Hedges at EMSRB, 2829 University Avenue S.E., Suite 310, Minneapolis, MN 55414-322, telephone (612) 627-6000, to find out how to file exceptions or present argument.

The Board must issue its final decision within 60 days of receipt of the recommended decision.^[2] Under the Administrative Procedure Act, if the Board fails to issue a final decision within 90 days of the close of the agency record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Board, or upon the expiration of the deadline for

doing so. The Board must notify the parties and the Administrative Law Judge of the date on which the record closes.

STATEMENT OF THE ISSUE

Whether the City of Chaska's application to upgrade its current license from basic ambulance service (BLS) to advanced ambulance service (ALS) should be granted.

Based upon the record in this matter, the Administrative Law Judge makes the following:

FINDINGS OF FACT

Status Quo

1. The City of Chaska is licensed by the Emergency Medical Services Regulatory Board ("EMSRB" or "Board") to provide basic life support (BLS) ambulance services to Chaska and a portion of Carver County.^[3] The services are provided by members of Chaska's volunteer fire department who are trained as Emergency Medical Technicians (EMTs). Chaska has operated a BLS ambulance service within Chaska for over 50 years.^[4]

2. Chaska is located in an established ALS territory known as the South Metro Primary Service Area (PSA). In addition to Chaska, there are three other BLS license holders in the metro area that are located within established ALS territories: Marina on the St. Croix, Columbia Heights, and Lakeland.^[5]

3. The South Metro PSA consists of a geographical area stretching from the City of Bloomington in Hennepin County, south to Spring Lake Park in Scott County, and west to Chaska in Carver County. The area includes the Minneapolis-St. Paul International Airport, Bloomington, Savage, Prior Lake, Shakopee, Chaska, Carver, a small portion of Chanhassen, and a number of townships in mid and southern Scott County. The northern border of the South Metro PSA is Highway 494 at the border of Bloomington and Richfield/Edina.^[6]

4. Allina Medical Transportation (Allina or AMT) holds an ALS license for the South Metro PSA. AMT has provided this area with ALS ambulance service since approximately 1994 when St. Francis Regional Medical Center became part of the Allina system.^[7] South Metro is one of four separate geographic areas served by AMT in the metropolitan region.^[8] Chaska is located at the northwestern boundary of Allina's South Metro PSA.^[9]

5. AMT provides ALS service to the entire South Metro PSA without any cost to the City of Chaska. Charges for the service are borne by the user or payor on his or her behalf.^[10]

6. Ridgeview Medical Center is located in Waconia, west of Chaska, and also in Carver County. Its ambulance service provides mutual aid or back-up coverage for ALS service in the South Metro PSA.

7. Under Chaska's current ambulance service model, when a medical emergency occurs, the first responders to the call are the Chaska Police Department, and Chaska Ambulance's BLS unit, which is staffed by EMTs from Chaska's volunteer fire department. The Chaska Police Department responds with one or two squad cars depending on police availability. The average Chaska police officer response time is approximately two minutes. The Chaska volunteer firefighter EMTs arrive at the scene on average four to six minutes after the call comes in.^[11]

8. Chaska currently has 20 full-time police officers to serve its approximately 20,000 citizens.^[12]

9. The City of Chaska provides approximately \$60,000 annually in subsidies to its volunteer fire department.^[13]

10. For each ambulance call in Chaska, AMT or Ridgeview Ambulance is also deployed to the scene of the incident. Because Allina and Ridgeview are responding from outside the city limits, they usually arrive on the scene within an 8-10 minute period.^[14] AMT's and Ridgeview's response times meet the standards adopted by Hennepin County.^[15]

11. Currently, AMT has six ambulances serving the South Metro PSA. None of its ambulances are stationed within Chaska's city limits. Instead, AMT has an ambulance located in the vicinity of Highways 41 and 169, south of Chaska, that responds to the majority of the calls for service within Chaska.^[16]

12. Highway 41 is the main north/south corridor through Chaska. It currently carries on average approximately 18,900 cars per day. It is projected that traffic on Highway 41 will increase significantly over the next 20 years. By 2030, it is estimated that Highway 41 will carry on average 28,000 cars per day.^[17]

13. Access to Chaska via Highway 41, which crosses the Mississippi River, may be limited during periods of flooding.^[18] Since 1990, the river has flooded four times at the Highway 41 river crossing. In 1997, Highway 41 was closed for two weeks due to flooding.^[19] On those occasions when the river has flooded, AMT has stationed an ambulance within Chaska's city limits.^[20]

14. If an ALS ambulance unit were stationed in Chaska, access to the city on Highway 41 would not be a concern.^[21]

Proposals for Change

15. In 2002, the Chaska Volunteer Fire Department formed a task force to study various options for restructuring the First Responder Emergency Medical System in Chaska. Because of Chaska's growth in population and increase in emergency

medical calls, Chaska was concerned that its volunteer fire department could suffer “burnout” among its volunteer members thereby jeopardizing the City’s first responder system.^[22] In the end, the task force recommended to the Chaska City Council that Chaska apply for its own ALS license and contract with either AMT or Ridgeview Medical Center to provide the ALS service.^[23]

16. Employers of the volunteer firefighters who staff Chaska’s BLS ambulance unit have complained to the Chaska Fire Chief about the number of calls responded to by their employees. On occasion, volunteer firefighters have had to leave their jobs and respond to ambulance or fire calls as often as three times a day.^[24]

17. Sometime in mid or late 2002, Chaska sought proposals from AMT and Ridgeview Medical Center Ambulance Service (“RMCAS”) for contracting for ALS service. Sometime thereafter, RMCAS presented a proposal to Chaska at a meeting held at the Chaska Fire Station. The proposal assumed that Chaska would be the ALS licensee. AMT declined to present a proposal at that time.^[25]

18. In its proposal, RMCAS offered to provide Chaska with paramedic staffing 24 hours per day, 7 days a week, billing services, and training, with the understanding that Chaska would provide the ambulance unit, EMT staffing and housing for the ambulance. In addition, RMCAS proposed paying Chaska a stipend of \$80 per billable run. And, RMCAS proposed transitioning to a “Phase II” at any time at the request of Chaska. Under Phase II, RMCAS offered to provide all staffing with a back-up rig deployed from Chanhassen, Victoria or St. Bonifacius.^[26]

19. The following year, on April 14, 2003, AMT submitted a proposal to Chaska that provided for an ambulance to be garaged at the Chaska Fire Station with paramedic staffing 24 hours per day, 7 days a week.^[27] AMT further proposed that when the response volume reached 1000 calls, AMT would transition to “Phase II” and provide both the paramedic and the EMT.^[28] AMT also proposed an ambulance deployment plan that provided for an ambulance to remain posted within Chaska except when all other ambulances in the South Metro PSA were in active service.^[29] AMT was unwilling, however, to relinquish to Chaska its ALS license to operate within the city.^[30]

20. Having an ambulance garaged at the Chaska Fire Station would improve AMT’s (or RMCAS’s) response time from its current average of 8-10 minutes to Chaska Ambulance’s average of 4-6 minutes. Faster response times are important for improving the outcomes in cases of cardiac arrest, anaphylactic reaction, or other situations where emergency medical services are needed as fast as possible.^[31] And having the ALS ambulance staffed by a paramedic would reduce the number of response calls for the Chaska volunteer firefighters.^[32]

21. AMT has recently invested \$1.6 million dollars to upgrade its communication center, where calls are received from 13 different public service answering points within its entire service area.^[33] Thirty full-time employees staff the dispatch center and there are never less than three staff members on duty at any given time.^[34] Part of the upgraded dispatch center includes the recently required technology

that allows patching together emergency responders with fire departments, the police and other governmental agencies, to ensure seamless communication among all the professionals responding to a particular call. Under this system, an ambulance responding from the Chaska Fire Station is able to communicate with AMT's responding ambulance unit.^[35]

Agreement with Ridgeview

1. On or about April 22, 2003, Chaska and RMCAS entered into an agreement outlining the terms of a proposed joint venture for ALS ambulance service in the City of Chaska.^[36] Under the terms of the agreement, once Chaska obtains an ALS license upgrade, it will contract with Ridgeview to be its ALS provider. Chaska will retain the ALS license and will supply the ambulance unit, on-call volunteer EMTs, and station the ambulance at the Chaska Fire Department. RMCAS will operate and staff the ALS unit with a paramedic 24-hours per day, 7-days per week.^[37]

2. Under the proposed Chaska/RMCAS alliance, all medical dispatches and instructions can be coordinated through RMCAS' and Carver County's dispatch centers. RMCAS uses an 800-megahertz radio system for communication and dispatch functions. RMCAS can communicate with any public service agency within the Carver County area via the 800 radio system.^[38]

3. RMCAS operates a fleet of four ambulances based in the communities of Chanhassen, Norwood-Young America, Watertown, and Minnetrista.^[39]

4. The only area in Carver County not served by RMCAS is the Chaska portion of AMT's South Metro PSA.^[40]

5. Chaska's proposed PSA is much more geographically compact than AMT's South Metro PSA, and is contiguous with the area already served by RMCAS.^[41]

6. The ambulance rotation or deployment system under the proposed Chaska/RMCAS contract is weighted towards eastern Carver County. In the event of a second or third ambulance call in Chaska, a responding ambulance from the RMCAS fleet would come from a significantly closer distance than would an AMT unit, resulting in a faster response time.^[42]

7. Under AMT's proposal, the ambulance deployment system is weighted towards the eastern portion of the South Metro PSA, with three ambulances posted in Bloomington and one near the border of Shakopee and Savage. However, by adding an ambulance in Chaska, AMT would retain a responding ambulance just across the river near Highways 41 and 169 in the event of a second medical call in Chaska. And AMT proposed to move the Chaska ambulance from its post only if all of its other South Metro PSA ambulances were called in active service.^[43]

The Application

29. On May 2, 2003, Chaska submitted its application, dated April 8, 2003, for an ALS license to the Emergency Medical Services Regulatory Board. The application identified Ridgeview Medical Center as its affiliated base hospital.^[44]

30. Chaska seeks to upgrade its current BLS license to an advanced life support (ALS) license.^[45] Chaska's proposed ALS primary service area includes the City of Chaska, Laketown Township (sections: Township 116, Range 24, Section 24 east of County Road 11/Victoria Dr.; Township 116, Range 24, Section 25 east of County Road 11/Victoria Dr.; Township 116, Range 24, Section 36 east of County Road 11/Victoria Dr.); Chaska Township (All Township 115, Range 23 and entire sections 5, 6, 7, and 8); the City of Carver, and the city of Chanhassen (south of Pioneer Trail/County Road 14 to south end of City limits.)^[46]

31. Chaska's proposed ALS territory is geographically smaller than its current BLS territory.^[47]

32. Chaska is located within Carver County. One of the goals of the Carver County Community Health Plan for 2000-2003 is to "improve the outcome of medical emergencies."^[48] Del Hurt, Director of Community Health Services for Carver County, believes that Chaska would achieve better medical outcomes if Chaska Ambulance were licensed as an ALS Provider because response times to medical incidents would improve.^[49] And Scott Gerber, Carver County's Risk and Emergency Management Director, believes an upgrade to an ALS license would enhance Chaska's preparedness and response efforts.^[50]

33. Chaska has received letters supporting its application to upgrade to an ALS license from Carver County and neighboring cities that are currently in its BLS PSA. Specifically, Chaska received favorable recommendations from Carver County's Health Department, Carver County Board of Commissioners, Carver County's Office of Risk/Emergency Management, Carver County's Sheriff's Department, the City of Victoria, the City of Mayer, the City of Carver, the City of Chanhassen, the Chanhassen Fire Department, the Waconia Fire Department, the Hamburg Fire Department, Ridgeview Medical Center and Ambulance Services, Carver Fire and Rescue, and Watertown Fire and Rescue.^[51]

34. Loyal Weaver, a Chaska resident and paramedic does not want Chaska's ALS application to be approved. Mr. Weaver is concerned that the cost of operating an ALS service will result in higher City taxes.^[52]

35. Dr. Jeffrey Hill, Director of Emergency Services at St. Francis Regional Medical Center, submitted a letter to the record supporting maintaining AMT as the ALS provider for Chaska. St. Francis Regional Medical Center is an Allina affiliate.^[53]

36. Chaska has mutual aid agreements for back-up ambulance service coverage with the following licensed providers: Ridgeview Ambulance, Hennepin County Medical Center, and Belle Plaine Ambulance.^[54]

Demographics

37. Chaska's current population is approximately 20,000. Chaska's population increased by nearly 8,000 residents from 1990 to 2000. And, according to data from the Metropolitan Council, Chaska's population is projected to grow to 27,700 by the year 2010.^[55]

38. In 2002, Chaska had an estimated population of 19,300 and generated almost 500 first responder calls to the Chaska Volunteer Fire Department for medical emergencies. The volunteers who make up Chaska's Fire Department also responded to approximately 350 fire calls in 2002.^[56]

39. By 2010, assuming the same ratio of calls per household, it is anticipated that Chaska will generate approximately 1,500 responder calls. By the year 2015, first responder calls in Chaska are anticipated to increase to almost 2,000.^[57] And AMT's six ambulance rigs would be serving a population greater than was served in 2000 with Chaska.

40. According to data from the Metropolitan Council, the number of households within AMT's current ALS South Metro PSA, are projected to increase by almost 10,000 from 2000 to 2004. In 2000, AMT's current PSA, including Chaska, had 65,998 households. In 2004, AMT is expected to have 75,637 households in its South Metro PSA. Chaska itself is expected to increase from 6,104 households in 2000 to 8,033 households in 2004.^[58]

41. Without Chaska, AMT would have a projected 67,604 households in its South Metro PSA in 2004, slightly more than it had with Chaska in 2000.^[59] And AMT's six ambulance rigs would be serving a population greater than was served in 2000 with Chaska.

42. By 2030, the number of households in Scott County, which includes Shakopee, Savage, and Prior Lake, are projected to increase by 166%, from approximately 30,700 in 2000 to 81,700 in 2030.^[60]

43. The number of households in Carver County are projected to increase by 123%, from approximately 24,000 in 2000 to 54,000 in 2030.^[61]

44. Many factors determine a region's volume of ambulance service calls including, the number of households and the age of the population.^[62] Likewise, an ALS provider's revenues are determined by a variety of factors including, population growth, age of the population, and the ability of the population to pay for services.^[63]

45. Carver County is projected to see its population of persons aged 45-64 increase by 82% from approximately 13,700 in 2000 to 25,000 in 2010. During that same ten-year period, the percentage of persons in Carver County aged 65-74 is expected to increase by 44% from approximately 2,800 to 4,000, and those aged 75 and over are expected to increase by almost 50% from approximately 1,500 to 3,000.

This growth in older age groups that are at a higher risk for medical problems will increase the number of calls for medical services in the county.^[64]

46. Because Chaska already owns its own ambulance and its own ambulance location at the Chaska Fire Station, it would not have large up-front costs or capital investments associated with starting its own ALS service.^[65]

47. Contracting with Ridgeview for ALS service would cost Chaska approximately \$43,000 per year based on an assumption of 700 calls for service per year. This amount is less than the City's current subsidy and it would result in significantly less demand on Chaska's volunteer firefighters.^[66]

48. AMT has undertaken and participated in several public health initiatives that benefit the residents of the South Metro PSA, including the citizens of Chaska. These initiatives include implementation of pre-hospital 12 lead EKGs for cardiovascular care patients, advanced and specialized education for paramedics, including airway management training, and the Heart Safe program, which in partnership with various hospital foundations, involves placement of automatic external defibrillators throughout the communities AMT serves, including 15 in Chaska.^[67]

49. Although AMT may lose revenue if Chaska's ALS license is granted, there is no evidence that this loss of revenue will result in a deleterious effect on the public health, such as a reduction of services or increase in ambulance charges or that AMT would suffer irreparable injury.

50. If Chaska's ALS license application is granted, there will be a potential duplication of ALS ambulance service in the Chaska area with both Chaska and AMT licensed as ALS providers.^[68]

51. The EMSRB issued a Notice of the Completed Application that was published in the State Register on June 30, 2003 and the Chaska Herald on July 17, 2003. Copies of the notice were also mailed to the Carver County Board of Commissioners, the Carver County Community Health Board, the Governing Body of the Regional EMS System, the ambulance services based in Shakopee, Belle Plaine, Chaska and Waconia, and to the mayors of the cities of Carver, Chanhassen, Chaska, Cologne, Hamburg, Mayer, New Germany, Norwood Young America, Victoria, Waconia, and Watertown.

52. The EMSRB received more than five written comments opposing Chaska's application to upgrade to an ALS license during the public comment period.

53. In a letter to the EMSRB dated August 12, 2003, Chaska City Administrator Dave Pokorney requested to immediately proceed to a contested case hearing.

54. Any Findings more properly termed as Conclusions are hereby adopted as such.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. The Emergency Medical Services Regulatory Board and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. § 144E.11 and §14.50, et seq. (2002).

2. Proper notice of the Applicant's application was given in full compliance with the provisions of Minn. Stat. § 144E.11, subd. 2 (2002).

3. The Board published the Notice of Hearing in the Chaska Herald on October 16 and October 23, 2003. The hearing in this matter was set for October 30, 2003. However, the statute requires publication for two successive weeks at least ten days before the date of the hearing.^[69] The parties waived any objections to the published notice and the hearing was held as scheduled.

4. The Notice of Completed Application and Notice of and Order for Hearing were in proper form and content, and the Board and Applicant have complied with all relevant substantive and procedural requirements of statute and rule.

5. Under Minn. Rules, pt. 1400.7300, subp. 5 (2003), the Applicant has the burden of proving by a preponderance of the evidence that its application for an ALS license should be granted.

6. A Primary Service Area (PSA) is the geographic area that can reasonably be served by an ambulance service.^[70]

7. Minn. Stat. § 144E.11, subd. 6 (2002) provides that when reviewing an application for licensure, the Board and Administrative Law Judge shall consider the following factors:

- (1) the relationship of the proposed service or expansion in primary service area to the current community health plan as approved by the commissioner of health under section 145A.12, subdivision 4;
- (2) the recommendations or comments of the governing bodies of the counties, municipalities, and regional emergency medical services system designated under section 144E.50 in which the service would be provided;
- (3) the deleterious effects on the public health from duplication, if any, of ambulance services that would result from granting the license;
- (4) the estimated effect of the proposed service or expansion in primary service area on the public health; and

(5) whether any benefit accruing to the public health would outweigh the costs associated with the proposed service or expansion in primary service area.

8. The ALS license upgrade sought by Chaska is consistent with the Carver County Community Health Plan for 2000 - 2003, and the proposed license upgrade will assist Chaska in meeting or exceeding that Plan's goals and objectives.

9. The political subdivisions within Chaska's proposed PSA submitted written comments and recommendations that were favorable to the proposed upgrade in license and recommended its approval.

10. The possibility of duplication of service does not prohibit the Board from granting an ALS license.

11. Any potential duplication of ambulance services caused by granting the application is not likely to have a deleterious effect on the public health since the growth in AMT's PSA will allow it to remain a viable provider and since there is a history of voluntary adjustment of primary service areas by licensees.

12. The estimated effects of Chaska's license upgrade and contractual alliance with RMCAS on the public health in Chaska's proposed PSA will include, among other things: (a) faster ALS service response times; (b) improved medical outcomes in cases of cardiac arrests, anaphylactic reaction or other emergency medical situations; (c) improved ambulance rotation system; (d) a more compact geographical service area; and (e) reduced response calls for Chaska's volunteer fire fighters.

13. The benefits that will accrue to the public health of citizens in Chaska's PSA will outweigh the costs associated with the upgrading of the Applicant's license to the ALS level.

14. Any Conclusion more properly termed a Finding is hereby adopted as such.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDED ORDER

IT IS HEREBY RECOMMENDED that the Minnesota Emergency Medical Services Regulatory Board GRANT Chaska's application for an advanced life support ambulance service license for its proposed Primary Service Area.

Dated this 23rd day of December 2003.

S/ George A. Beck

GEORGE A. BECK

Administrative Law Judge

Reported: Transcribed (2 volumes).
Angela Sauro, Kirby A. Kennedy & Associates

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the Board is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

MEMORANDUM

Chaska Fire Department has been providing basic life support (BLS) ambulance services to Chaska and a portion of Carver County for over 50 years. It now seeks to upgrade to an advanced life support (ALS) ambulance service license. After reviewing the record and considering the statutory factors contained in Minn. Stat. § 144E.11, subd. 6, the Administrative Law Judge recommends that Chaska's application for an ALS license be granted.

Chaska has established that an upgrade to an ALS license is consistent with the Carver County Community Health Plan. It will also reduce response calls to Chaska's volunteer firefighters addressing the "burnout" concern, and improve public health by shortening the status quo ALS ambulance response time, which should result in better medical outcomes for some emergencies. Additionally the new rotational system for ambulances may be advantageous to Chaska residents. Chaska also submitted letters of support from the governing bodies of the counties, municipalities, and regional emergency medical services system within its proposed primary service area (PSA). Although AMT argues that the governing bodies were not aware of AMT's April 2003 proposal, AMT could have provided this information to the commenters. AMT submitted no recommendations from political subdivisions. And Chaska demonstrated that if its application is granted, its costs would remain roughly the same. Because Chaska already owns its own ambulance and garage, it would not have large up-front costs associated with starting its own ALS service. Thus, Chaska has met its burden of establishing that its application meets four of the five review factors set forth in Minn. Stat. § 144E.11, subd. 6.

The Administrative Law Judge finds that Chaska's application also meets the final factor regarding deleterious effects on public health from duplication of ambulance services. Although granting Chaska's license application will result in the potential duplication of ambulance services in Chaska, with both Chaska and AMT licensed as ALS providers, the record does not support finding that such duplication will have a deleterious effect on the public health. Instead, Chaska demonstrated that, given the growth in population projected for AMT's South Metro PSA, AMT will actually have more households in 2004 without Chaska than it did with Chaska in 2000. Thus, although AMT will lose some revenue from missed calls in Chaska, there is no persuasive evidence that the resulting loss of revenue will have a significant adverse impact on AMT's finances or cause it to increase rates or reduce services. AMT's six ambulance

rigs will be serving a population that is greater in 2004 without Chaska than they served with Chaska in 2000.

AMT presented testimony suggesting that approval of the application would result in a degradation of the PSA system as a whole. However, given the size and growth of AMT's PSA, it is difficult to see how this is true. Unless PSA's are never to be adjusted, this application presents an opportunity for a reasonable realignment that satisfies the statutory criteria. The statute does not prohibit duplication of ambulance services *per se* or prohibit the Board from granting a license that will result in duplication. Rather, it requires only that the ALJ and Board consider the deleterious effects on public health from such duplication. The ALJ is persuaded by the statistical information presented regarding the growth of population and households projected for the South Metro PSA that no such deleterious effects will result from a duplication of ALS service in Chaska's proposed PSA.^[71]

Additionally, the applicant has cited several positive factors that result if the ALS license is granted. It has long held BLS licensure and will be able to maintain licensure in an upgraded capacity. Chaska's BLS license overlap with other BLS PSA's is eliminated if its ALS license is approved. The geographical areas of AMT's, RMCAS, and Chaska's PSA will become more compact with the result that the rotation of ambulances becomes easier and more effective. And the overutilization of Chaska's volunteer firefighters for EMS work will be addressed.

AMT argues that prior case law requires that this application be denied. However, the facts and the law in this matter are distinguishable from those presented in *In re the License Application of Rochester Ambulance Service*.^[72] In that case, the commissioner of health determined that granting an applicant's ALS license application for the Rochester area would adversely impact the existing provider's revenues, causing it to raise rates or reduce services. The Court of Appeals found the commissioner's reasoning flawed, due to the lack of data regarding the existing provider's finances. But the court upheld the commissioner's ultimate determination that the applicant failed to establish a need for service not being met by the existing provider.

Unlike *Rochester Ambulance Service*, Chaska is not seeking to engage in head-to-head competition with an existing ALS provider in a small PSA where the likelihood of an adverse impact on the existing provider's finances is clear. Rather, Chaska is attempting to carve out a small portion of a geographically large PSA whose population is growing rapidly. In addition, unlike the applicant in the *Rochester Ambulance Service* case, Chaska is not statutorily required to demonstrate that its ALS license upgrade is needed. The specific showing of need, which was required under the former statute,^[73] was eliminated when the statute was recodified in 1997 following the establishment of the Emergency Medical Services Regulatory Board. Under the statute applicable to this case, the administrative law judge and the Board consider only the five statutory criteria when reviewing a license application. Neither does the *Rochester Ambulance* case require an applicant to make a detailed showing concerning a competitor's financial situation, where, as here, the objector's PSA is large and growing, even apart from the area covered by the application.

The record indicates that both AMT and RMCAS are capable providers and that AMT has served Chaska well. And it is the case that AMT's latest proposal would address many of Chaska's concerns (although it was prompted by this application). But, despite AMT willingness to station an ALS unit within Chaska's city limits and its commendable record of service to Chaska over the years, Chaska need only show that its application meets all five criteria set forth in the statute, and this it has done. The applicant also points out that this application is distinguishable from prior case law not only by the lack of need criteria, but also because of Chaska's existing BLS license, that it has operated for over 50 years. Given its unique situation, the Board can approve the application without setting a precedent.

Accordingly, the ALJ recommends that the Board grant Chaska's application for an ALS ambulance service license.

G.A.B.

^[1] Minn. Stat. § 14.61 (2002).

^[2] Minn. Stat. § 144E.11, subd. 7 (2002).

^[3] Ex. 11.

^[4] Radde at 129.

^[5] Pokorney at 34-35; Ex. 10.

^[6] LaCroix at 221, 271-272; Ex. I.

^[7] LaCroix at 221-222.

^[8] LaCroix at 221.

^[9] Ex. I.

^[10] VanEyll at 64.

^[11] Ex. 1.

^[12] Pokorney at 22.

^[13] Pokorney at 20.

^[14] Ex. 1.

^[15] LaCroix at 230; Ex. C.

^[16] Knight at 98; Gerber at 104; LaCroix at 238; Ex. I.

^[17] Monk at 77-78; Ex. 20.

^[18] Monk at 78-79.

^[19] Ex. 20.

^[20] Pokorney at 86.

^[21] Monk at 80; Ex. 20.

^[22] Scheuing at 68.

^[23] Pokorney at 17, Scheuing at 69, LaCroix at 232-233; Ex. 3.

^[24] Scheuing at 68, 72.

^[25] Knight at 92, LaCroix at 232-234; Exs. 21 and B.

^[26] Pokorney at 23; Ex. 21.

^[27] Exs. B and D.

^[28] LaCroix at 240; Ex. B.

^[29] LaCroix at 238-239; Ex. I.

^[30] Pokorney at 51.

^[31] Lick at 295-296.

^[32] VanEyll at 66.

[\[33\]](#) LaCroix at 223.
[\[34\]](#) LaCroix at 223-224.
[\[35\]](#) LaCroix at 222-225, 256; Ex. E.
[\[36\]](#) Ex. 19.
[\[37\]](#) Pokorney at 23, Radde at 119-128; Exs. 17, 19, 21.
[\[38\]](#) Radde at 132.
[\[39\]](#) Gerber at 103-104; Ex. 21.
[\[40\]](#) Ex. 3.
[\[41\]](#) Exs. 3 and 21.
[\[42\]](#) Ex. 21.
[\[43\]](#) Ex. I, Testimony of LaCroix at 237-240.
[\[44\]](#) Ex. 1.
[\[45\]](#) Ex. 1.
[\[46\]](#) Exs. 1 and 11.
[\[47\]](#) Ex. 11.
[\[48\]](#) Ex. 22.
[\[49\]](#) Ex. 4.
[\[50\]](#) Gerber at 102.
[\[51\]](#) Exs. 4-9.
[\[52\]](#) Weaver at 143-144.
[\[53\]](#) Public Ex. 1.
[\[54\]](#) Ex. 1.
[\[55\]](#) Exs. 1, 14, 15.
[\[56\]](#) Ex. 1.
[\[57\]](#) Pokorney at 19-20.
[\[58\]](#) Pokorney at 40; Exs. 14, 15, 16.
[\[59\]](#) Pokorney at 40; Exs. 14, 15, 16.
[\[60\]](#) Exs. 14, 16.
[\[61\]](#) Ex. 16.
[\[62\]](#) Wingrove at 277-78.
[\[63\]](#) LaCroix at 250-251.
[\[64\]](#) Ex. 15 (Source: MN Planning State Demographic Center.); Wingrove at 278.
[\[65\]](#) Pokorney at 23-26; Ex. 3.
[\[66\]](#) Pokorney at 23-26; Ex. 3.
[\[67\]](#) LaCroix at 214, 245-246; Lick at 285-293.
[\[68\]](#) Wingrove at 277.
[\[69\]](#) Minn. Stat. § 144E.11, subd. 5(e).
[\[70\]](#) Minn. Stat. § 144E.001, subd. 10.
[\[71\]](#) See Findings of Fact Nos. 37-45.
[\[72\]](#) 500 N.W.2d 495 (Minn. App. 1993).
[\[73\]](#) Minn. Stat. § 144.802 (1994).